

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Bong Wan Kim, et al.

Application No. 10/713,943

Filed: November 14, 2003

For: **APPARATUS AND METHOD FOR
CONTROLLING MEMORY ALLOCATION
FOR VARIABLE SIZE PACKETS**

Examiner: Kaushikkumar M. Patel

Art Unit: 2188

Confirmation No.: 4798

**RENEWED PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE
HOLDING OF ABANDONMENT AND REINSTATE APPLICATION**

Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In a Decision mailed May 26, 2009, the Office alleges that Petitioner appears not to comply with the guidance of the Commentary at MPEP Section 711.03(c)(I). In particular, the Decision alleges that Petitioner failed to comply with the requirements expressly set forth in the guidance in the Commentary at MPEP 711.03(c)(I) requiring:

- a copy of the firm due-date docket / calendar and a copy of a docket sheet (or file jacket cover) for the instant application and;
- recitations as to a statement of non-receipt “at the correspondence address of record,” a statement of search of the file and non-discovery, a description of the

docketing system, a statement of system reliability, and such requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I).

In response, Applicant respectfully submits that all requirements set forth in MPEP 711.03(c)(I) were complied with in the previously submitted Petition.

Firstly, regarding the allegation that requirements include: “a copy of the firm due-date docket / calendar and a copy of a docket sheet (or file jacket cover) for the instant application” Applicant notes that the cited MPEP section states:

A copy of the practitioner’s record(s) required to show non-receipt of the Office Action should include the master docket for the firm. That is, if a three-month period for the reply was set forth in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. (Emphasis added.)

In this connection, as stated in the Petition at page 2, second paragraph, and in the accompanying Declaration of Eric S. Hyman, paragraph 3, the docket report provided with the Petition “is the is the complete docket for March 3, 2009 for the law firm Blakely, Sokoloff, Taylor & Zafman having a mailing address of 1279 Oakmead Parkway, Sunnyvale, California 94045-4040.” Although the Petition does not use the word “master”, but does use the word “complete” since, in this context, the terms “complete” and “master” are a reference to the same piece of information, Applicant submits that Exhibit 1 attached to the Petition filed May 7, 2009 entitled “Docket in Support of Petition to Withdraw Holding of Abandonment” which is 14 pages in length is, in fact, the master docket referred to in the MPEP section. Thus, the contention in the Decision that “a copy of the firm due-date docket/calendar and a copy of the docket sheet (or file jacket cover) for the instant application” is in error since the requirement to provide such information is mandated only “if no such master docket exists.”

As to the contention in the Decision that Applicant failed to comply by failing to include "recitations as to a statement of non-receipt 'at the correspondence address of record,' a statement of search of the file and non-discovery, a description of the docketing system, a statement of system reliability, and such requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I)," Applicant respectfully directs the Office to the previously submitted Petition at Page 2, paragraphs 2-7 in the previously provided Declaration of Eric S. Hyman, paragraphs 3-7, wherein each of the required recitations are expressly set forth.

If the Office maintains that the various requirements have not been complied with, it is requested that the Office provide a clear and unambiguous explanation as to why the explanations provided at Page 2 of the Petition, and paragraphs 2-7 of the previously provided Declaration of Eric S. Hyman do not comply with MPEP 711.03(c)(I) including associated guidance in the Commentary.

Absent such clear and unambiguous explanations, it is requested that the Petition be granted and a new Notice of Allowance be mailed as set forth in Delgar v. Schulyer, 172 USPQ 513(D.D.C. 1971) as set forth in the cited MPEP section.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP

Dated: _____

6/11/09

By: _____

Eric S. Hyman, Reg. No. 30,139

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CERTIFICATE OF ELECTRONIC SUBMISSION

I hereby certify that this correspondence is being transmitted via EFS Web to the USPTO Office of Petitions on the date shown below.

Alexis Karriker

6/12/2009

Date